IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.6047 of 2004

Between:

Miss.Yasmin Sultana, D/o Late Shah Abdul Ashad Yahya,
R/o Flat No. 106, 1st Floor, Siddartha Aswini Apartments, Raithibowli,
Midway colony, Mehdipatnam, Hyderabad.

...PETITIONER

AND

1. A.P.Residential Educational Institutions Society, rep.by its Secretary,
   Gagan Vihar, III Floor, Nampally, Hyderabad.

2. Quli Qutub Shah Urdu Residential School, Barkas, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order of direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the Respondents in surrendering the post held by the petitioner at the Quli Qutub Shah Urdu residential School Barkas, the 2nd Respondent herein and the action of the authorities in issuing proceedings in R.C.No.1217/A4-1/2003 dated 03.10.2004 and reiterating the stand in R.C.No.1217/A4-1/2003 dated 19.08.2003 and not giving posting and Trained Graduate Teacher (TGT) at Quli Qutub Shah Urdu Residential School Barkas, as arbitrary, illegal, contrary to law, violation of principles of natural justice and also in violation of fundamental rights guaranteed under Articles 14, 16 and 21 of the Constitution of India and issue consequential directions to post the petitioner as Trained Graduate Teacher at the Quli Qutub shah Urdu Residential School Barkas.

Counsel for the Petitioner: MR.L.RAVICHANDER

Counsel for the Respondents: MR.VIJAYA BHASKAR MOOLA FOR RMAPP-1&2

The Court made the following:

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.6047 of 2004

ORDER:

Heard both sides.

At the request of both the counsel, the main Writ Petition itself is taken up for disposal.

The petitioner, a teacher, files this Writ Petition seeking a writ of mandamus declaring the action of the respondents in transferring the petitioner from one school to another school by the impugned orders dated 19.08.2003 and 03.10.2003 as illegal.

It is the case of the petitioner that she had been discharging the duties without any complaints whatsoever in nature. It is also pointed out that she joined service in the year 1989 and subsequently, she was transferred to Vikarabad in October, 1990 and again transferred to Quli Qutub Shah Urdu Residential School, Barkas in the year 1992 and now under the impugned orders, she was transferred to A.P.Residential School (Girls), Nagarkurnool, Mahaboobnagar District. The transfer

was not merely on routine or regular or administrative grounds. Therefore, the impugned orders totally suffer from improbability and the petitioner cannot be imposed with any such punishment of transfer for any allegations, more so, without a proper enquiry and findings thereon as provided for under the law. Hence, the present Writ Petition is filed.

In the counter-affidavit filed by respondent Nos.1 and 2, it has been alleged that having regard to the various allegations made against the petitioner and especially, on the complaint given by the parents of the students, she was transferred and therefore, the transfer of the petitioner is proper.

Having regard to the submissions made on both sides and on a perusal of the material available on record, it is seen that the impugned action of transfer of the petitioner was apparently in view of certain allegations forthcoming against the petitioner and on the complaint made by the parents of the students. Though the transfer of the petitioner was done on administrative grounds, a reading of the counter-affidavit shows that it is not on administrative ground but certainly due to the allegations and also based upon certain reports there of. In view of the same, it is to be held that the transfer is not on a routine and administrative ground. If really there are any allegations against the petitioner, it is always open for the authorities to take appropriate action against the petitioner as provided for under law, but not to transfer, more so, without a proper enquiry.

In the said circumstances, the Writ Petition is allowed and the impugned orders are set aside. However, it shall be open for the respondents to take any action in relation to the allegations or any complaints received against her.

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(B.PRAKASH RAO, J)

7th December 2004

RRB

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday,

the Seventh day of December 2004.

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Secretary, A.P.Residential Educational Institutions Society, Gagan Vihar, III Floor, Nampally, Hyderabad.
2. The Secretary, Quli Qutub Shah Urdu Residential School, Barkas, Hyderabad.
3. Two CD copies.